

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1105

Citations Affected: IC 5-2-1-9; IC 5-10-5.5; IC 5-22-22-12; IC 36-1-11-5.7; IC 36-8-19.

Synopsis: Various public safety matters. Conference committee report for EHB 1105. Increases to 65 years of age (from 60 years of age) the mandatory retirement age for a participant in the excise police, gaming agent, and conservation enforcement officers' retirement plan (plan). Caps the plan's annual retirement allowance at 75% of the participant's average annual salary. Establishes a deferred retirement option plan (DROP) for plan participants. Requires a law enforcement officer who: (1) has less than 25 years experience as a law enforcement officer; and (2) has not been employed as a law enforcement officer in the 10 years before being hired as a law enforcement officer or is hired in an upper level policymaking position; to repeat the full basic training course in order to regain law enforcement powers. Provides that a law enforcement officer who has at least 25 years experience as a law enforcement officer is not required to repeat the full basic training course but is required to attend a refresher course and a pre-basic training course to regain law enforcement powers. Provides that a refresher course for an officer who has not been employed as a law enforcement officer more than six years but less than ten years and is hired in an upper level policymaking position: (1) may not exceed 120 hours of course work; and (2) must include any credit hours received for completion of the police chief executive training program. Provides that a governmental body may transfer property to the board of fire trustees of a fire protection district or the provider unit of a fire protection territory under the same circumstances that property may be transferred to a volunteer fire department. Provides that a participating unit in a fire protection territory may transfer any money belonging to the participating unit to the fire protection territory fund, the fire protection territory equipment replacement fund, or both funds. Legalizes any transfer of money from a participating unit to a fire protection territory before July 1, 2008. Provides that when a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit. Requires the Indiana criminal justice institute to prepare a yearly report concerning: (1) probationary and restricted driving privileges for persons holding a commercial driver's license; (2) prosecuting attorney diversion and deferral limitations and the computer system established by the prosecuting attorneys council of Indiana; (3) e-citations; (4) ignition interlock programs and other alcohol monitoring systems and other alcohol abuse deterrent programs; and (5) procedures and practices regarding license suspensions or granting of restricted or probationary licenses for persons holding a commercial driver's license or for the arrest or conviction of persons concerning a violation of certain alcohol

related offenses. Provides that the reporting ends January 1, 2014. (This conference committee report removes provisions that do the following: (1) Provide that on January 1, 2009, the fire departments of the townships and a fire protection territory in a county containing a consolidated city are consolidated into the fire department of the consolidated city; that after December 31, 2008, the consolidated fire department provides fire protection services throughout the county with the exception of the excluded cities; that the consolidation of fire departments results in the transfer of property, equipment, records, rights, contracts (including labor contracts), and indebtedness; that a firefighter who is a member of the 1937 or 1977 fund remains a member of the same fund after the consolidation; and that the consolidated fire department is required to develop a strategic plan to determine resource requirements and resource deployments for the consolidated fire department. (2) Require the mayor of the consolidated city to establish a professional standards board with responsibility after December 31, 2008, for establishing, validating, and maintaining emergency responder certification and credentialing requirements and procedures. (3) Provide that the requirements and procedures must be in accordance with the National Incident Management System and appropriate national professional standards and certification organizations and boards. (4) Specify that a subcommittee of the professional standards board, under the direction of a board-certified emergency physician, is responsible for certification and credentialing of emergency medical responders. (5) Exempt from the property tax levy limits any amounts imposed by the consolidated city or the county to fund former township indebtedness. (6) Establish a maximum property tax levy for the consolidated city for property taxes payable in 2009, 2010, and 2011 that is the sum of the city's 2009 maximum levy plus the combined amounts levied in 2008 by the townships, fire protection territory, and included towns for firefighting. (7) Adjust the county option income tax distributive shares of the townships and the consolidated city and county. (8) Specify that the balance in the cumulative building and equipment fund for fire protection and related services of each entity whose fire department is consolidated into the fire department of the consolidated city be transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services. This conference committee report adds the contents of ESB 83, which requires the Indiana criminal justice institute to prepare a yearly report concerning: (1) probationary and restricted driving privileges for persons holding a commercial driver's license; (2) prosecuting attorney diversion and deferral limitations and the computer system established by the Indiana prosecuting attorney's council; (3) e-citations; (4) ignition interlock programs and other alcohol monitoring systems and other alcohol abuse deterrent programs; and (5) procedures and practices regarding license suspensions or granting of restricted or probationary licenses for persons holding a commercial driver's license or for the arrest or conviction of persons concerning a violation of certain alcohol related offenses. Provides that the reporting ends January 1, 2014. This conference committee report adds a provision that allows a law enforcement officer who: (1) is hired in an upper level policymaking position and has not been employed as a law enforcement officer more than 6 years but less than 10 years before being hired by a police department; and (2) fulfills other requirements; to take a refresher course and pre-basic training instead of full basic training in order to regain full law enforcement powers.)

Effective: Upon passage; July 1, 2008; January 1, 2009.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1105 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.230-2007,
- 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance
- 5 with IC 4-22-2 all necessary rules to carry out the provisions of this
- 6 chapter. The rules, which shall be adopted only after necessary and
- 7 proper investigation and inquiry by the board, shall include the
- 8 establishment of the following:
- 9 (1) Minimum standards of physical, educational, mental, and
- 10 moral fitness which shall govern the acceptance of any person for
- 11 training by any law enforcement training school or academy
- 12 meeting or exceeding the minimum standards established
- 13 pursuant to this chapter.
- 14 (2) Minimum standards for law enforcement training schools
- 15 administered by towns, cities, counties, law enforcement training
- 16 centers, agencies, or departments of the state.
- 17 (3) Minimum standards for courses of study, attendance
- 18 requirements, equipment, and facilities for approved town, city,
- 19 county, and state law enforcement officer, police reserve officer,
- 20 and conservation reserve officer training schools.
- 21 (4) Minimum standards for a course of study on cultural diversity
- 22 awareness that must be required for each person accepted for

training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), ~~(q)~~, (r), and ~~(r)~~, (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

- (1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or
- (2) an:
 - (A) attorney; or
 - (B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-2-1-15(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or

1 agency on either a full-time or part-time basis is not eligible for
2 continued employment unless the officer satisfactorily completes the
3 mandatory inservice training requirements established by rules adopted
4 by the board. Inservice training must include training in interacting
5 with persons with mental illness, addictive disorders, mental
6 retardation, and developmental disabilities, to be provided by persons
7 approved by the secretary of family and social services and the board,
8 and training concerning human and sexual trafficking. The board may
9 approve courses offered by other public or private training entities,
10 including postsecondary educational institutions, as necessary in order
11 to ensure the availability of an adequate number of inservice training
12 programs. The board may waive an officer's inservice training
13 requirements if the board determines that the officer's reason for
14 lacking the required amount of inservice training hours is due to either
15 of the following:

16 (1) An emergency situation.

17 (2) The unavailability of courses.

18 (h) The board shall also adopt rules establishing a town marshal
19 basic training program, subject to the following:

20 (1) The program must require fewer hours of instruction and class
21 attendance and fewer courses of study than are required for the
22 mandated basic training program.

23 (2) Certain parts of the course materials may be studied by a
24 candidate at the candidate's home in order to fulfill requirements
25 of the program.

26 (3) Law enforcement officers successfully completing the
27 requirements of the program are eligible for appointment only in
28 towns employing the town marshal system (IC 36-5-7) and having
29 not more than one (1) marshal and two (2) deputies.

30 (4) The limitation imposed by subdivision (3) does not apply to an
31 officer who has successfully completed the mandated basic
32 training program.

33 (5) The time limitations imposed by subsections (b) and (c) for
34 completing the training are also applicable to the town marshal
35 basic training program.

36 (i) The board shall adopt rules under IC 4-22-2 to establish an
37 executive training program. The executive training program must
38 include training in the following areas:

39 (1) Liability.

40 (2) Media relations.

41 (3) Accounting and administration.

42 (4) Discipline.

43 (5) Department policy making.

44 (6) Lawful use of force.

45 (7) Department programs.

46 (8) Emergency vehicle operation.

47 (9) Cultural diversity.

48 (j) A police chief shall apply for admission to the executive training
49 program within two (2) months of the date the police chief initially
50 takes office. A police chief must successfully complete the executive
51 training program within six (6) months of the date the police chief

initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city;
- (2) the police chief of any town having a metropolitan police department; and
- (3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
- ~~(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);~~
- ~~(3) (2)~~ has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and
- ~~(4) (3)~~ completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;**
- (2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;**
- (3) is hired under subdivision (1) in an upper level policymaking position; and**
- (4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).**

A refresher course established under this subsection may not

1 exceed one hundred twenty (120) hours of course work. All credit
 2 hours received for successfully completing the police chief
 3 executive training program under subsection (i) shall be applied
 4 toward the refresher course credit hour requirements.

5 ~~(o)~~ (p) Subject to subsection (q), an officer to whom subsection (n)
 6 or (o) applies must successfully complete the refresher course
 7 described in subsection (n) or (o) not later than six (6) months after the
 8 officer's date of hire, or the officer loses the officer's powers of:

- 9 (1) arrest;
- 10 (2) search; and
- 11 (3) seizure.

12 ~~(p)~~ (q) A law enforcement officer who

13 ~~(1) has completed a basic training course certified by the board;~~
 14 ~~and~~

15 ~~(2) has not been employed as a law enforcement officer in the six~~
 16 ~~(6) years before the officer is hired as a law enforcement officer;~~

17 **has worked as a law enforcement officer for less than twenty-five**
 18 **(25) years before being hired under subsection (n)(1) or (o)(1) is not**
 19 **eligible to attend the refresher course described in subsection (n) or (o)**
 20 **and must repeat the full basic training course to regain law enforcement**
 21 **powers. However, a law enforcement officer who has worked as a**
 22 **law enforcement officer for at least twenty-five (25) years before**
 23 **being hired under subsection (n)(1) or (o)(1) and who otherwise**
 24 **satisfies the requirements of subsection (n) or (o) is not required to**
 25 **repeat the full basic training course to regain law enforcement**
 26 **power but shall attend the refresher course described in subsection**
 27 **(n) or (o) and the pre-basic training course established under**
 28 **subsection (f).**

29 ~~(q)~~ (r) This subsection applies only to a gaming agent employed as
 30 a law enforcement officer by the Indiana gaming commission. A
 31 gaming agent appointed after June 30, 2005, may exercise the police
 32 powers described in subsection (d) if:

- 33 (1) the agent successfully completes the pre-basic course
- 34 established in subsection (f); and
- 35 (2) the agent successfully completes any other training courses
- 36 established by the Indiana gaming commission in conjunction
- 37 with the board.

38 ~~(r)~~ (s) This subsection applies only to a securities enforcement
 39 officer designated as a law enforcement officer by the securities
 40 commissioner. A securities enforcement officer may exercise the police
 41 powers described in subsection (d) if:

- 42 (1) the securities enforcement officer successfully completes the
- 43 pre-basic course established in subsection (f); and
- 44 (2) the securities enforcement officer successfully completes any
- 45 other training courses established by the securities commissioner
- 46 in conjunction with the board.

47 **(t) As used in this section, "upper level policymaking position"**
 48 **refers to the following:**

- 49 **(1) If the authorized size of the department or town marshal**
- 50 **system is not more than ten (10) members, the term refers to**
- 51 **the position held by the police chief or town marshal.**

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

SECTION 2. IC 5-10-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), every participant is required to retire on the first day of the month following the participant's ~~sixtieth~~ **sixty-fifth** birthday.

(b) An officer who becomes a participant after becoming fifty (50) years of age is required to retire on the earlier of:

(1) the first day of the month following the participant's sixty-fifth birthday; or

(2) the first day of the month following the completion of ~~ten (10)~~ **fifteen (15)** years of service.

SECTION 3. IC 5-10-5.5-10, AS AMENDED BY P.L.180-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on the participant's normal retirement date, shall be a percentage of the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of the participant's average annual salary for each completed year of creditable service more than ten (10) years. **However, the annual retirement allowance computed under this subsection may not exceed seventy-five percent (75%) of the participant's average annual salary.**

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 4. IC 5-10-5.5-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) As used in this section, "**DROP**" refers to a deferred retirement option plan established under this section.

(b) As used in this section, "**DROP entry date**" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "**DROP frozen benefit**" refers to an

1 annual retirement allowance computed under section 10 of this
2 chapter based on a participant's:

- 3 (1) average annual salary; and
- 4 (2) years of creditable service;

5 on the date the participant enters the DROP.

6 (d) As used in this section, "DROP retirement date" means the
7 future retirement date selected by a participant at the time the
8 participant elects to enter the DROP.

9 (e) Only a participant who is eligible to receive an unreduced
10 annual retirement allowance immediately upon termination of
11 employment may elect to enter a DROP. A participant who elects
12 to enter the DROP must agree to the following:

13 (1) The participant shall execute an irrevocable election to
14 retire on the DROP retirement date and must remain in active
15 service until that date.

16 (2) While in the DROP, the participant shall continue to make
17 contributions under section 8 of this chapter.

18 (3) The participant shall select a DROP retirement date not
19 less than twelve (12) months and not more than thirty-six (36)
20 months after the participant's DROP entry date.

21 (4) The participant may not remain in the DROP after the
22 date the participant reaches the mandatory retirement age
23 under section 9 of this chapter.

24 (5) The participant may make an election to enter the DROP
25 only once in the participant's lifetime.

26 (f) Contributions or payments provided by the general assembly
27 under section 4(b)(4) of this chapter continue for a participant
28 while the participant is in the DROP.

29 (g) A participant shall exit the DROP on the earliest of the
30 following:

31 (1) The participant's DROP retirement date.

32 (2) Thirty-six (36) months after the participant's DROP entry
33 date.

34 (3) The participant's mandatory retirement age.

35 (4) The date the participant retires because of a disability as
36 provided by subsection (k).

37 (h) A participant who retires on the participant's DROP
38 retirement date or on the date the participant retires because of a
39 disability as provided by subsection (k) may elect to receive an
40 annual retirement allowance:

41 (1) computed under section 10 of this chapter as if the
42 participant had never entered the DROP; or

43 (2) consisting of:

44 (A) the DROP frozen benefit; plus

45 (B) an additional amount, paid as the participant elects
46 under subsection (i), determined by multiplying:

47 (i) the DROP frozen benefit; by

48 (ii) the number of months the participant was in the
49 DROP.

50 (i) The participant shall elect, at the participant's retirement, to
51 receive the additional amount calculated under subsection (h)(2)(B)

in one (1) of the following ways:

(1) A lump sum paid on:

(A) the participant's DROP retirement date; or

(B) the date the participant retires because of a disability as provided by subsection (k).

(2) Three (3) equal annual payments:

(A) commencing on:

(i) the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k); and

(B) thereafter paid on:

(i) the anniversary of the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit calculated under subsection (h)(2)(B) is paid in a lump sum to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the lump sum is paid to the participant's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered the DROP.

SECTION 5. IC 5-22-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) This section applies to the following surplus property:

- (1) Fire trucks.
- (2) Emergency service vehicles.
- (3) Firefighting or emergency services equipment.

(b) As used in this section, "fire department" refers to any of the following:

- (1) A volunteer fire department has the meaning set forth (as defined in IC 36-8-12-2).
- (2) The board of fire trustees of a fire protection district established under IC 36-8-11.
- (3) The provider unit of a fire protection territory established under IC 36-8-19.

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a governmental body may transfer title of surplus property to a volunteer fire department for the volunteer fire department's use in providing fire protection or emergency services.

(d) A volunteer fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the volunteer fire departments located in the same county as the governmental body may be transferred to any volunteer fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a volunteer fire department under this section by:

- (1) sale;
- (2) gift; or
- (3) another arrangement acceptable to the governmental body and the volunteer fire department.

SECTION 6. IC 36-1-11-5.7, AS ADDED BY P.L.188-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.7. (a) As used in this section, "political subdivision":

- (1) before July 1, 2008, does not include a township in a county having a consolidated city; and
- (2) after June 30, 2008, refers to all political subdivisions.

(b) As used in this section, "fire department" refers to any of the following:

- (1) A volunteer fire department has the meaning set forth (as defined in IC 36-8-12-2).
- (2) The board of fire trustees of a fire protection district established under IC 36-8-11.
- (3) The provider unit of a fire protection territory established under IC 36-8-19.

(c) (b) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5

of this chapter, a disposing agent of a political subdivision may sell or transfer:

- (1) real property; or
- (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses; without consideration or for a nominal consideration to a ~~volunteer~~ fire department for construction of a fire station or other purposes related to firefighting.

SECTION 7. IC 36-8-19-8, AS AMENDED BY P.L.47-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).
- (3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

- (1) the levy in the following year shall be increased by the amount required to be transferred; and
- (2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection

services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

- (1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and
- (2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

SECTION 8. IC 36-8-19-8.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:**

- (1) the fire protection territory fund established under section 8 of this chapter;
- (2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or
- (3) both funds described in subdivisions (1) and (2).

(b) An ordinance or a resolution adopted under this section must state both of the following:

- (1) The amount of money transferred to either fund.
- (2) The source of the money.

(c) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.

SECTION 9. IC 36-8-19-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire protection territory as provided in section 13 of this chapter.**

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

SECTION 10. [EFFECTIVE UPON PASSAGE] IC 5-10-5.5-9 and IC 5-10-5.5-10, both as amended by this act, and IC 5-10-5.5-22, as added by this act, apply only to a participant in the state excise police, gaming agent, and conservation enforcement officers' retirement fund who is in active service after June 30, 2008.

SECTION 11. [EFFECTIVE JANUARY 1, 2009] (a) As used in this SECTION, "bureau" means the bureau of motor vehicles created by IC 9-14-1-1.

(b) As used in this SECTION, "council" means the prosecuting attorneys council of Indiana established by IC 33-39-8-2(a).

(c) As used in this SECTION, "e-citation" means an electronic traffic ticket (as defined in IC 9-30-3-2.5).

(d) As used in this SECTION, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

(e) As used in this SECTION, "license" means a commercial driver's license issued according to rules adopted under IC 9-24-6-2.

(f) The institute shall prepare an annual report that studies the following:

(1) Implementation of P.L.219-2003 (incorporating federal law regarding probationary and restricted driving privileges for persons holding a license).

(2) Implementation of P.L.176-2005, SECTIONS 19 through 25 (prosecuting attorney diversion and deferral limitations and the computer system established by the council).

(3) Implementation of P.L.206-2007 (e-citations).

(4) Use in Indiana of:

(A) ignition interlock programs and other alcohol monitoring systems such as SCRAM (Secure Continuous Remote Alcohol Monitor); and

(B) other alcohol abuse deterrent programs.

(5) Procedures and practices regarding license suspensions or granting of restricted or probationary licenses for:

(A) persons holding a license; or

(B) the:

(i) arrest of a person alleged to have; or

(ii) conviction of a person who has;

committed a violation of IC 9-30-5.

(g) To the extent available and permissible, the institute may consult with and use records of the bureau, the council, and the judicial technology and automation committee of the supreme court.

(h) The institute shall transmit the compiled report to the legislative council in an electronic format under IC 5-14-6 not later than November 1 of each year.

(i) This SECTION expires January 1, 2014.

SECTION 12. An emergency is declared for this act.

(Reference is to EHB 1105 as reprinted February 20, 2008.)

Conference Committee Report
on
Engrossed House Bill 1105

Signed by:

Representative Tincher
Chairperson

Senator Bray

Representative Summers

Senator Skinner

House Conferees

Senate Conferees